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MAILED

JUL 14 2010

OFFICE OF PETITIONS

In re Patent No. 7,660,324 : DECISION ON REQUEST FOR
OGUCHI et al. : RECONSIDERATION OF
Issue Date: February 9, 2010 : PATENT TERM ADJUSTMENT AND
Application No. 09/988,958 : NOTICE OF INTENT TO ISSUE
Filed: November 19, 2001 : CERTIFICATE OF CORRECTION
Atty. Docket No. FUJZ 19.185 :

This is a decision on the petition filed on January 26, 2010, which is being treated as a petition under 37 CFR 1.705(d) requesting that the patent term adjustment indicated on the above-identified patent be corrected to indicate that the term of the above-identified patent is extended or adjusted by five hundred sixteen (516) days.

The petition to correct the patent term adjustment indicated on the above-identified patent is **GRANTED to the extent indicated herein**. The term of the above-identified patent is extended or adjusted by **eight hundred forty-two (842) days**.

Patentees do not dispute the calculation of 888 days of PTO delay ("A delay"). However, patentees dispute the reduction of 96 days associated with the filing of the Information Disclosure Statement ("IDS") on November 6, 2009, after the mailing of the notice of allowance pursuant to 37 CFR 1.704(c)(10).

Specifically, patentees assert that the Examiner acted on the IDS and mailed a responsive communication on December 16, 2009. Patentees contend that they should have been assessed 41 days of applicant delay (not 96 days) for the period beginning on the

filing date of the IDS, November 6, 2009, and ending on the mailing date of the communication in response to the IDS, December 16, 2009. See 37 CFR 1.704(c)(10).

Patentees' contention is well taken. A review of the application history confirms that patentees' calculation of the period of reduction of patent term under 37 CFR 1.704(c)(10) for the filing of the IDS on November 6, 2009, is correct. Therefore, the period of reduction of 96 days will be removed and a period of reduction of 41 days will be entered.

Further, a review of the record reveals that a period of adjustment pursuant to 37 CFR 1.702(b) should have been entered for the Office issuing the patent in excess of three years after filing the application ("B delay"). As the period from the filing date of the request for continued examination (RCE) to the issue date of the patent is not included in the B delay period, the over three year period begins on November 20, 2004, and ends on May 7, 2006, the day before the RCE was filed, and is 534 days. See 35 U.S.C. 154(b)(1)(B)(i). However, A delay and B delay overlap by 208 days (from November 20, 2004 to June 15, 2005).

Accordingly, the patent term adjustment is 842 days (888 days of A delay + 534 days of B delay - 208 days of overlap - 372 days of applicant delay).

The Office will *sua sponte* issue a certificate of correction. Pursuant to 37 CFR 1.322, the Office will not issue a certificate of correction without first providing assignee or patentee an opportunity to be heard. Accordingly, patentee is given **one (1) month or thirty (30) days**, whichever is longer, from the mail date of this decision to respond. No extensions of time will be granted under § 1.136.

Nothing in this decision shall be construed as a waiver of the requirement of 35 U.S.C. 154(b)(4) that any civil action by an applicant dissatisfied with a determination made by the Director under 35 U.S.C. 154(b)(3) be filed in the United States District Court for the District of Columbia within 180 days after the grant of the patent.

The Office will charge the Deposit Account for the \$200.00 fee set forth in 37 CFR 1.18(e) as authorized. No additional fees are required.

This matter is being referred to the Certificates of Correction Branch for issuance of a certificate of correction. The Office will issue a certificate of correction indicating that the term of the above-identified patent is extended or adjusted by **eight hundred forty-two (842) days**.

Telephone inquiries specific to this matter should be directed to the undersigned at (571) 272-3211.

Christina Tartera Donnell

Christina Tartera Donnell
Senior Petitions Attorney
Office of Petitions

Enclosure: Copy of DRAFT Certificate of Correction

UNITED STATES PATENT AND TRADEMARK OFFICE
CERTIFICATE OF CORRECTION

PATENT: 7,660,324 B2

DATED: Feb. 9, 2010

DRAFT

INVENTOR(S): OGUCHI et al.

It is certified that error appears in the above-identified patent and that said Letters Patent is hereby corrected as shown below:

On the cover page,

[*] Notice: Subject to any disclaimer, the term of this patent is extended or adjusted under 35 USC 154(b) by 461 days.

Delete the phrase "by 461 days" and insert – by 842 days--

Day : Wednesday

PALM INTRANET

Date: 7/14/2010

Time: 08:32:35

PTA Calculations for Application: 09/988958

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|--------------------------|------------|-------------------------|-----|
| Application Filing Date: | 11/19/2001 | PTO Delay (PTO): | 888 |
| Issue Date of Patent: | 02/09/2010 | Three Years: | 0 |
| Pre-Issue Petitions: | 0 | Applicant Delay (APPL): | 427 |
| Post-Issue Petitions: | 0 | Total PTA (days): | 842 |
| PTO Delay Adjustment: | 381 | | |

File Contents History

| Number | Date | Contents Description | PTO | APPL | START |
|--------|------------|--|-----|------|-------|
| 111 | 07/14/2010 | ADJUSTMENT OF PTA CALCULATION BY PTO | 326 | | |
| 110 | 07/14/2010 | ADJUSTMENT OF PTA CALCULATION BY PTO | | 41 | |
| 109 | 07/14/2010 | ADJUSTMENT OF PTA CALCULATION BY PTO | 96 | | |
| 105.5 | 01/20/2010 | PTA 36 MONTHS | | | |
| 105 | 02/09/2010 | PATENT ISSUE DATE USED IN PTA CALCULATION | | | |
| 104 | 01/15/2010 | EXPORT TO FINAL DATA CAPTURE | | | |
| 103 | 01/04/2010 | DISPATCH TO FDC | | | |
| 102 | 12/31/2009 | APPLICATION IS CONSIDERED READY FOR ISSUE | | | |
| 101 | 12/22/2009 | ISSUE FEE PAYMENT VERIFIED | | | |
| 100 | 12/22/2009 | ISSUE FEE PAYMENT RECEIVED | | | |
| 99 | 12/16/2009 | MAIL MISCELLANEOUS COMMUNICATION TO APPLICANT | | | |
| 98 | 12/15/2009 | MISCELLANEOUS COMMUNICATION TO APPLICANT - NO ACTION COUNT | | | |
| 97 | 11/06/2009 | INFORMATION DISCLOSURE STATEMENT CONSIDERED | | | |
| 96 | 11/18/2009 | MAIL MISCELLANEOUS COMMUNICATION TO APPLICANT | | | |
| 95 | 11/17/2009 | MISCELLANEOUS COMMUNICATION TO APPLICANT - NO ACTION COUNT | | | |
| 94 | 11/06/2009 | ELECTRONIC INFORMATION DISCLOSURE STATEMENT | | 96 | |
| 93 | 11/06/2009 | INFORMATION DISCLOSURE STATEMENT (IDS) FILED | | | |
| 92 | 10/29/2009 | FINISHED INITIAL DATA CAPTURE | | | |
| 91 | 09/28/2009 | EXPORT TO INITIAL DATA CAPTURE | | | |
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|----|------------|--|--|----|----|
| 90 | 09/23/2009 | MAIL NOTICE OF ALLOWANCE | | | |
| 89 | 09/23/2009 | ISSUE REVISION COMPLETED | | | |
| 88 | 09/23/2009 | NOTICE OF ALLOWANCE DATA VERIFICATION COMPLETED | | | |
| 87 | 09/23/2009 | DOCUMENT VERIFICATION | | | |
| 86 | 09/23/2009 | NOTICE OF ALLOWABILITY | | | |
| 85 | 08/21/2009 | DATE FORWARDED TO EXAMINER | | | |
| 84 | 08/17/2009 | AMENDMENT SUBMITTED/ENTERED WITH FILING OF CPA/RCE | | | |
| 83 | 08/21/2009 | DATE FORWARDED TO EXAMINER | | | |
| 82 | 08/17/2009 | REQUEST FOR CONTINUED EXAMINATION (RCE) | | 62 | 78 |
| 81 | 08/21/2009 | DISPOSAL FOR A RCE / CPA / R129 | | | |
| 80 | 08/17/2009 | REQUEST FOR EXTENSION OF TIME - GRANTED | | | |
| 79 | 08/17/2009 | WORKFLOW - REQUEST FOR RCE - BEGIN | | | |
| 78 | 03/16/2009 | MAIL FINAL REJECTION (PTOL - 326) | | | |
| 77 | 03/15/2009 | FINAL REJECTION | | | |
| 73 | 01/10/2009 | DATE FORWARDED TO EXAMINER | | | |
| 72 | 01/05/2009 | RESPONSE AFTER NON-FINAL ACTION | | 32 | 69 |
| 71 | 01/05/2009 | REQUEST FOR EXTENSION OF TIME - GRANTED | | | |
| 70 | 10/05/2008 | CASE DOCKETED TO EXAMINER IN GAU | | | |
| 69 | 09/04/2008 | MAIL NON-FINAL REJECTION | | | |
| 68 | 09/02/2008 | NON-FINAL REJECTION | | | |
| 65 | 08/13/2008 | DATE FORWARDED TO EXAMINER | | | |
| 64 | 08/08/2008 | AMENDMENT SUBMITTED/ENTERED WITH FILING OF CPA/RCE | | | |
| 63 | 08/13/2008 | DATE FORWARDED TO EXAMINER | | | |
| 62 | 08/08/2008 | REQUEST FOR CONTINUED EXAMINATION (RCE) | | | |
| 61 | 08/13/2008 | DISPOSAL FOR A RCE / CPA / R129 | | | |
| 60 | 08/08/2008 | WORKFLOW - REQUEST FOR RCE - BEGIN | | | |
| 59 | 06/26/2008 | NOTICE OF APPEAL FILED | | 92 | 50 |
| 58 | 06/26/2008 | REQUEST FOR EXTENSION OF TIME - GRANTED | | | |
| 57 | 06/27/2008 | MAIL ADVISORY ACTION (PTOL - 303) | | | |
| 56 | 06/23/2008 | ADVISORY ACTION (PTOL-303) | | | |
| 55 | 05/27/2008 | NEW OR ADDITIONAL DRAWING FILED | | | |
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|----|------------|---|----|----|----|
| 54 | 06/07/2008 | DATE FORWARDED TO EXAMINER | | | |
| 53 | 05/27/2008 | AMENDMENT AFTER FINAL REJECTION | | | |
| 52 | 05/27/2008 | REQUEST FOR EXTENSION OF TIME - GRANTED | | | |
| 50 | 12/26/2007 | MAIL FINAL REJECTION (PTOL - 326) | | | |
| 49 | 12/20/2007 | FINAL REJECTION | | | |
| 47 | 10/18/2007 | DATE FORWARDED TO EXAMINER | | | |
| 46 | 10/11/2007 | RESPONSE AFTER NON-FINAL ACTION | | 30 | 43 |
| 45 | 10/11/2007 | REQUEST FOR EXTENSION OF TIME - GRANTED | | | |
| 44 | 10/04/2007 | CASE DOCKETED TO EXAMINER IN GAU | | | |
| 43 | 06/11/2007 | MAIL NON-FINAL REJECTION | | | |
| 42 | 06/08/2007 | NON-FINAL REJECTION | | | |
| 41 | 03/29/2007 | DATE FORWARDED TO EXAMINER | | | |
| 40 | 03/19/2007 | RESPONSE AFTER NON-FINAL ACTION | | 60 | 38 |
| 39 | 03/19/2007 | REQUEST FOR EXTENSION OF TIME - GRANTED | | | |
| 38 | 10/18/2006 | MAIL NON-FINAL REJECTION | 10 | | 31 |
| 37 | 10/16/2006 | NON-FINAL REJECTION | | | |
| 36 | 09/18/2006 | CASE DOCKETED TO EXAMINER IN GAU | | | |
| 35 | 08/02/2006 | DATE FORWARDED TO EXAMINER | | | |
| 34 | 07/31/2006 | SUPPLEMENTAL RESPONSE | | | |
| 33 | 06/08/2006 | NEW OR ADDITIONAL DRAWING FILED | | | |
| 32 | 06/16/2006 | DATE FORWARDED TO EXAMINER | | | |
| 31 | 06/08/2006 | RESPONSE AFTER NON-FINAL ACTION | | | |
| 30 | 05/17/2006 | MAIL NOTICE OF INFORMAL OR NON-RESPONSIVE RCE AMENDMENT | | | |
| 29 | 05/16/2006 | NOTICE OF INFORMAL OR NON-RESPONSIVE RCE AMENDMENT. | | | |
| 28 | 05/08/2006 | NEW OR ADDITIONAL DRAWING FILED | | | |
| 27 | 05/16/2006 | DATE FORWARDED TO EXAMINER | | | |
| 26 | 05/08/2006 | AMENDMENT SUBMITTED/ENTERED WITH FILING OF CPA/RCE | | | |
| 25 | 05/16/2006 | DATE FORWARDED TO EXAMINER | | | |
| 24 | 05/08/2006 | REQUEST FOR CONTINUED EXAMINATION (RCE) | | 28 | 18 |
| 23 | 05/16/2006 | DISPOSAL FOR A RCE / CPA / R129 | | | |
| 22 | 05/16/2006 | CASE DOCKETED TO EXAMINER IN GAU | | | |
| 21 | 05/08/2006 | REQUEST FOR EXTENSION OF TIME - GRANTED | | | |

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|-----|------------|--|-----|----|----|
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| 20 | 05/08/2006 | WORKFLOW - REQUEST FOR RCE - BEGIN | | | |
| 19 | 03/21/2006 | CASE DOCKETED TO EXAMINER IN GAU | | | |
| 18 | 01/10/2006 | MAIL FINAL REJECTION (PTOL - 326) | | | |
| 17 | 01/06/2006 | FINAL REJECTION | | | |
| 16 | 10/21/2005 | DATE FORWARDED TO EXAMINER | | | |
| 15 | 10/12/2005 | RESPONSE AFTER NON-FINAL ACTION | | 27 | 12 |
| 14 | 10/12/2005 | REQUEST FOR EXTENSION OF TIME - GRANTED | | | |
| 13 | 10/12/2005 | MISCELLANEOUS INCOMING LETTER | | | |
| 12 | 06/15/2005 | MAIL NON-FINAL REJECTION | 878 | | -1 |
| 11 | 06/13/2005 | NON-FINAL REJECTION | | | |
| 10 | 06/01/2005 | CASE DOCKETED TO EXAMINER IN GAU | | | |
| 9 | 03/10/2005 | IFW TSS PROCESSING BY TECH CENTER COMPLETE | | | |
| 8 | 03/11/2002 | CASE DOCKETED TO EXAMINER IN GAU | | | |
| 7 | 01/07/2002 | CASE DOCKETED TO EXAMINER IN GAU | | | |
| 6.7 | 11/19/2001 | INFORMATION DISCLOSURE STATEMENT (IDS) FILED | | | |
| 6 | 11/19/2001 | INFORMATION DISCLOSURE STATEMENT (IDS) FILED | | | |
| 5 | 11/19/2001 | REQUEST FOR FOREIGN PRIORITY (PRIORITY PAPERS MAY BE INCLUDED) | | | |
| 4 | 12/05/2001 | APPLICATION DISPATCHED FROM OIPE | | | |
| 3 | 12/04/2001 | CORRESPONDENCE ADDRESS CHANGE | | | |
| 2 | 11/26/2001 | IFW SCAN & PACR AUTO SECURITY REVIEW | | | |
| 1 | 11/19/2001 | INITIAL EXAM TEAM NN | | | |

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EXPLANATION OF PTA CALCULATION

EXPLANATION OF PTE CALCULATION

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